IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 675 (MS) OF 2006

Chapar Pal, S/o Nirmal Singh,
R/o Village Lmlikhera Dharampur,
Pargana and Tehsil – Roorkee,
District-Haridwar. .....Petitioner.

Versus

1. Deputy Director of Consolidation/Addl. Collector, Haridwar.
2. Gram Sabha, Lmlikhera, Dharampur, through its Pradhan. .....Respondents.

Dated: 09.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sri M.S. Tyagi, Advocate for the petitioner, Sri Diwarkar Chamoli, Advocate for the respondents no. 2 and Standing Counsel for the respondent no.1. Both the parties have agreed that let the matter be finally disposed of at the admission stage.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order dated 29th May, 2006, 8th February, 2006 and 29.03.2006 passed in Revision No. 649/2004-05 Chatar Pal Vs. Gram Sabha.

Briefly stated, the petitioner has filed the objection under Section 9-A of the U.P. consolidation of Holdings Act seeking the benefit of Section 122-B (4) (f) of the U.P. Z.A. and L.R. Act. The Consolidation Officer has rejected the objection of the petitioner. The petitioner went in appeal before the S.O.C., the appellate Court dismissed the appeal.

The petitioner, therefore, has preferred a revision being revision no. 649 of 2005 Chatar Singh Vs. Gram Sabha under Section 48 of the Consolidation of Holdings Act. The said revision was dismissed in default on 29.09.2005. The petitioner has preferred a restoration application, the same was also dismissed in default on 08.02.2006. Again a restoration application was filed and the same was also dismissed on 29.03.2006.

The grievance of the petitioner is that the cause of restoration has not been looked into by the Presiding Officer and the revision was not heard on merits.

The Apex Court has held ***M.S. Grewal Vs. Deep Chand Sood*** in ***(2001) 8SCC 151*** as under:-

"Law Courts will lose their efficacy if they cannot possibly respond to the need of the society-technicalities there might be many but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice."

In ***N. Balakrishnan Vs. M.Krishnamurthy, 1998 S.C.F.B. and Rent Cases Pages 427,*** It has been held that law of limitation is founded in public policy on *'the maxim of interest reipublicae up sit finis litium'* i.e. fal the general welfare, it has been held as under:-

> *"The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause".*

In view of the above, a writ of certiorari is issued quashing the order dated 29.05.2005, 08.02.2006 and 29.03.2006. The matter is sent back to the revisional Court, who shall decide the revision on merits.

Writ petition is allowed. No order as to costs.

(Rajesh Tandon, J.)

09.06.2006

Rathour